

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

THE STATE OF LOUISIANA et al.,

Plaintiffs,
v.

JOSEPH R. BIDEN et al.,

Defendants.

No. 1:21-cv-3867

Judge Dee D. Drell

Magistrate Judge Joseph H. L. Perez-Montes

**DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION
FOR SUBPOENA AUTHORIZATION**

Defendants oppose Louisiana's request for the issuance of a subpoena. Louisiana and the other plaintiff states filed their complaint on November 4. Eight days later, on November 12, the plaintiff states filed their pending motion for a preliminary injunction. During those eight days, the states obtained and attached three declarations purporting to establish their standing to seek a preliminary injunction.

Louisiana waited another ten days until today to request that this Court authorize a subpoena allowing Louisiana to obtain further evidence in support of its own standing. This request comes four days before Defendants' opposition brief is due pursuant to an accelerated schedule entered largely at Louisiana's request.

In the normal course, Defendants would not object to Louisiana's attempt to obtain a subpoena for testimony from itself (as unusual as that may be). The problem here, however, is one of timing: Louisiana has delayed in making this request, and its last-minute attempt to obtain additional evidence would preclude Defendants from being able to respond in their brief that is due just days from now. Accordingly, the Court should deny Louisiana's request and instead evaluate the

plaintiff states' motion for a preliminary injunction based on their legal arguments and the three declarations that they have already submitted in connection with that motion.

Dated: November 22, 2021

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General

BRAD P. ROSENBERG
Assistant Director

/s/ Kevin Wynosky
MADELINE M. McMAHON
KEVIN WYNOSKY (PA Bar No. 326087)
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street N.W., Rm. 12400
Washington, DC 20005
(202) 616-8267
Kevin.J.Wynosky@usdoj.gov

Attorneys for Defendants